

EXHIBIT “O”

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF WESTCHESTER

-----X  
PETER GRAF, NANCY KUNAK and  
FAMILY OFFICE GROUP, LLC

Index No.: 23329/06

Plaintiffs,

ORDER WITH  
NOTICE OF ENTRY

- against -

PAOLA B. COLON,

Defendant.  
-----X

COUNSELLORS

PLEASE TAKE NOTICE, that the within is a true copy of an Order duly filed and entered on September 26, 2007, in the Office of the Westchester County Clerk.

Dated: White Plains, New York  
October 12, 2007

HARRINGTON, OCKO & MONK, LLP

By: 

John T.A. Rosenthal  
*Attorneys for Plaintiffs*  
81 Main Street, Suite 215  
White Plains, NY 10601  
(914) 686-4800

To: Roy A. McKenzie, Esq.  
*Attorney for Defendant*  
641 Lexington Avenue, 20th Floor  
New York, NY 10022  
(212) 832-3696

RECEIVED  
OCT 12 2007  
TIMOTHY C. IDONI  
COUNTY CLERK  
COUNTY OF WESTCHESTER

DECISION AND ORDER

To commence the statutory period of appeals as of right (CPLR 5513[a]), you are advised to serve a copy of this Order, with notice of entry, upon all parties.

SUPREME COURT OF THE STATE OF NEW YORK  
IAS PART, WESTCHESTER COUNTY

Present: HON. MARY H. SMITH  
Supreme Court Justice

PETER GRAF, NANCY KUNAK and FAMILY OFFICE  
GROUP, LLC,

Plaintiff,

-against-

PAOLA B. COLON,

Defendant.

The following papers numbered 1 to 4 were read on this motion by plaintiff for an Order pursuant to CPLR 3211, subdivision (a), paragraph 1 and 7, dismissing the counterclaim.

Papers Numbered

Notice of Motion - Affirmation (Rosenthal) - Exhs. (A-F) -  
Memorandum of Law ..... 1 - 4

Upon the foregoing papers, it is Ordered and adjudged that this motion by plaintiff for an Order dismissing the counterclaim is granted. No opposition. This Court agrees that defendant not only has failed to state a viable cause of action under the Federal

FILED


SEP 26 2007

TIMOTHY C. IDOM  
COUNTY CLERK  
COUNTY OF WESTCHESTER

Medical Leave Act, but that the documentary evidence supports the finding that no such claim exists. Moreover, to the extent that defendant additionally has attempted to assert in her counterclaim violations of some "other" unspecified statutory rights, such is found insufficient to support any cause of action, failing as it does to afford plaintiffs adequate notice of defendant's claim. See CPLR 3013.

The parties shall appear, as previously scheduled, at 9:30 a.m., on January 31, 2008, for a trial readiness conference. This date shall not be adjourned without the Court's consent. Any party's failure to appear may result in the imposition of costs and/or sanctions.

Dated: September 26, 2007  
White Plains, New York

  
\_\_\_\_\_  
MARY H. SMITH  
J.S.C.

Roy A. McKenzie, Esq.  
Atty. For Deft.  
641 Lexington Avenue, 20<sup>th</sup> fl.  
New York, New York 10022

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Attys. For Pltff.  
81 Main Street, Suite 215  
White Plains, New York 10601

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF WESTCHESTER

-----X  
PETER GRAF and NANCY KUNAK,

Index No.: 23329/06

Plaintiffs,

**AFFIDAVIT OF SERVICE**

- against -

PAOLA B. COLON,

Defendant.  
-----X

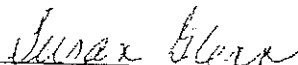
STATE OF NEW YORK                    )  
  ) ss.  
COUNTY OF WESTCHESTER            )

Susan Glenn, being duly sworn, deposes and says: I am not a party to this action, over 18 years of age, and reside in Dutchess County, New York.

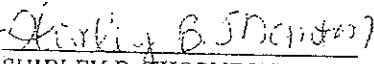
On October 12, 2007, deponent served the within Order with Notice of Entry upon:

Roy A. McKenzie, Esq.  
641 Lexington Avenue, 20<sup>th</sup> Floor  
New York, NY 10022

by depositing a true copy thereof in a post-paid wrapper, in an official depository under the care and custody of the United States Postal Service within the State of New York.

  
\_\_\_\_\_  
Susan Glenn

Sworn to before me this  
12<sup>th</sup> day of October, 2007.

  
SHIRLEY B. THORNTON  
Notary Public, State of New York  
No. 01TH6029394  
Qualified in Westchester County  
Commission Expires August 16, 2009